IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SIXTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION No.10371 of 2004

Between:

Smt.M.Rama Laxmamma, W/o Mchupally Narayana Reddy,
aged about 50 years, R/o H.No.7/725, Mochampet, Kadapa District.

..... PETITIONER

AND

1 The District Collector, Kadapa.
2 The Revenue Divisional Officer, Ramarajupalle, Kadapa District.
3 The Mandal Revenue Officer, Kadapa Mandal, Kadapa District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or Writ one in the nature of Writ of Mandamus, declaring the action of the Respondent No.3 in trying to dispossess the petitioner from the peaceful possession of her land in Sy.No.55/1 to an extent of Acs.2.80 of Ramarajupalle Village, Kadapa District as arbitrary, illegal, unjust and violative of Article 300-A of the Constitution of India.

Counsel for the Petitioner: SMT.N.SHOBA

Counsel for the Respondent Nos.1 to 3: GP FOR REVENUE (Assignment)

The Court made the following:

ORDER:

The petitioner is resident of Mochampet village in Kadapa Mandal and District. She allegedly purchased an extent of Acs.2.80 in Sy.No.55/1 from Machupally Parvathamma to whom the land was given under D.K.T. Patta dated 15.6.1975. The Mandal Revenue Officer issued a notice on 28.7.2000 calling upon the petitioner to appear for an enquiry regarding the land in question. The petitioner states that she received another notice on 14.11.2003 calling upon her to appear for an enquiry on 24.11.2003. Alleging that the third respondent is interested in assigning the land to other persons without following due process of law, the petitioner filed the present writ petition seeking a writ of mandamus declaring the action of the third respondent in trying to dispossess the petitioner from the peaceful possession of the land.

The third respondent has filed a counter affidavit denying the petition allegations and stating that the petitioner's husband Machupally Narayana Reddy filed W.P. No.9966 of 2004 claiming an extent of Acs.1.50 and the said writ petition was dismissed by this Court. It is also alleged that the land in Survey No.55 is vagu poramboke and that no patta was granted to any person and the patta granted to Machupally Parvathamma is forged and fabricated one. On a representation made by poor harijans of the village for temporary cultivation of the land, Eksal lease was granted in the year 1999 and 2001. An enquiry was conducted and it was found that the land in question is vagu poramboke and the assignment of the same is prohibited. The petitioner has not chosen to file any reply affidavit denying the counter averments.

Though the interlocutory application is listed today, the writ petition was heard finally with the consent of learned Counsel for petitioner and learned Assistant Government Pleader for Revenue.

A copy of the order passed by me in W.P. No.9966 of 2004 is placed before this Court. Indeed there is no dispute that the said judgment covers the case on hand. Further if the petitioner is in possession of vagu poramboke, it is always open to the respondents to evict the petitioner from the possession in W.P. No.9966 of 2004. While dismissing the writ petition this Court observed as under:

The petitioner has not filed any reply affidavit denying the counter averments. In view of un-

controverted counter averments, an inference can be drawn that the petitioner is not at all in possession of the property. Whether the Xerox copy of D-Form patta produced by the petitioner is genuine, forged or fabricated is a question of fact, which requires adducing of evidence. Therefore, this Court is not inclined to record any finding. It is needless to point out that if any person is in possession of the Government land, such person can be evicted only after following due process of law. If the petitioner claims any Government land, he has to approach the competent Civil Court by filing a suit for declaration and in this writ petition, no such declaration can be granted in favour of the petitioner.

Following the same reason, the writ petition, with the above observations made hereinabove, is dismissed. No costs.

November 16, 2004. **V.V.S. RAO, J**

YS

To

1 The District Collector, Kadapa.
2 The Revenue Divisional Officer, Ramarajupalle, Kadapa District.
3 The Mandal Revenue Officer, Kadapa Mandal, Kadapa District.

4 Two CCs to the Government Pleader for Revenue (Assignment),

High Court Buildings, Hyderabad (O.U.T)

5 Two CD Copies.